City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Kassam Residence**
Proposal Address:	**840 97th Ave SE**
Proposal Description:	Critical Areas Land Use Permit approval to construct a new single-family residence and driveway within a steep slope and steep slope structure setback. The proposal will reduce a steep slope structure setback from 75 feet to a proposed minimum of approximately 11 feet. Mitigation proposed includes native steep slope plantings and vegetative enhancement of an existing stand of mature trees. The proposal is supported by a critical areas report, geotechnical report, and a mitigation plan
File Number:	**19-125906-LO**
Applicant:	**Faizel Kassam**
Decisions Included:	**Process II**
Planner:	**David Wong**, Land Use Planner
State Environmental Policy Act Threshold Determination:	**Exempt**
Department Decision:	**Approval with Conditions**

Heidi M. Bedwell,
Environmental Planning Manager for

Elizabeth Stead, Land Use Director
Development Services Department

Application Date:	October 2, 2019
Notice of Application Publication Date:	December 5, 2019
Decision Publication Date:	April 9, 2020
Appeal Deadline:	April 23, 2020

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

CONTENTS

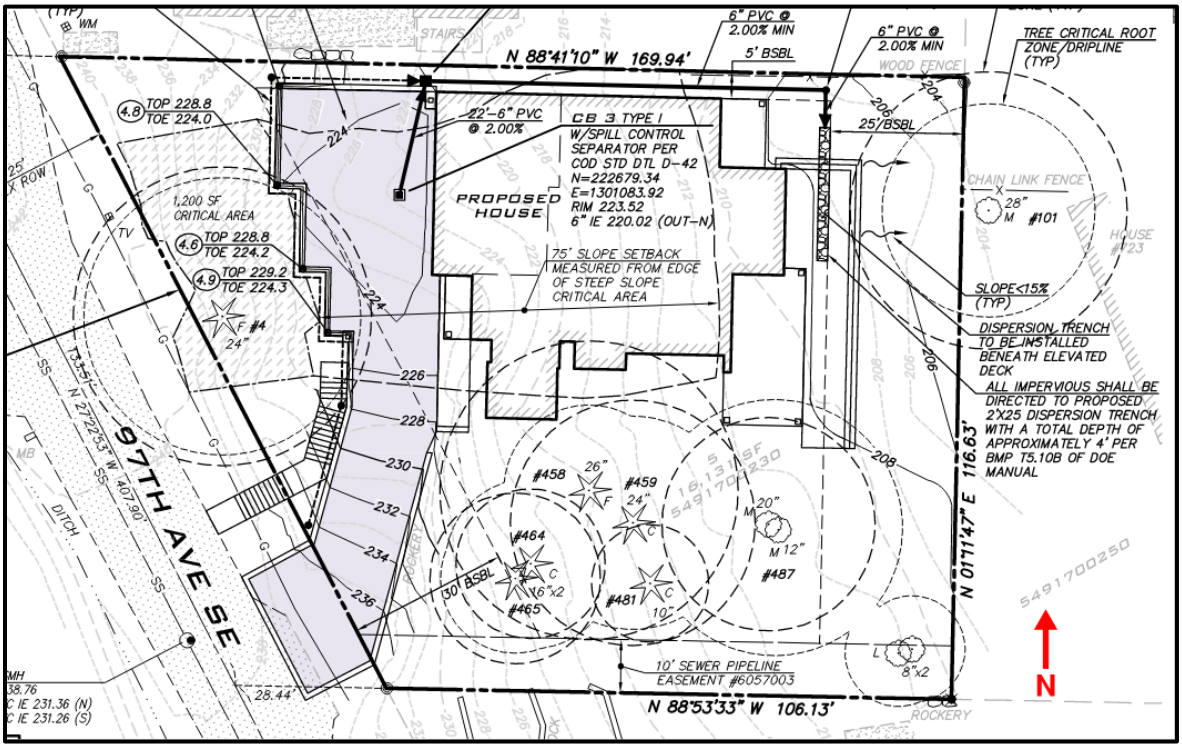
Attachments

1. Site Plan
2. Critical Areas Report & Addendum – Watershed Company (in file)
3. Geotechnical Engineering Study & Addendum – Earth Solutions NW (in file)

I. Request & Review Process

The applicant has requested a Critical Areas Land Use Permit review of a proposal to construct a 3,550 square-foot single-family within a critical area steep slope and 75-foot steep slope structure setback. The proposed residence and driveway is located within the code required steep slope and steep slope structure setback, and requests allowance of disturbance within the steep slope and structure setback and permanent modification of the 75-foot structure setback. The proposed minimum setback is 11-feet. The proposal includes approximately 1,730 square feet of steep slope mitigation and enhancement planting to improve degraded slope conditions and degraded conditions that are currently present to the east of the driveway. See Figure 1 for proposed site conditions.

Figure 1



Proposals to permanently modify a steep slope structure setback require the approval of a Critical Areas Land Use Permit (CALUP) with Critical Areas Report (CAR) and are subject to the requirements of LUC 20.25H and 20.30P, including but not limited to those sections governing steep slopes, Critical Areas Reports (CAR), and restoration.

II. Site, Zoning, and Land Use Context and Critical Areas Functions and Values

A. Site Context

The subject lot is approximately 16,100 square feet in size and is currently developed with a single-family residence, driveway, and porch. A steep slope critical area with an east-facing aspect is located between the existing single-family residence and 97th Ave

SE. The site contains a variety of native and non-native vegetation, including but not limited to Douglas-fir (*Pseudotsuga menziesii*), redwood (*Sequoia sempervirens*), big-leaf maple (*Acer macrophyllum*), western redcedar (*Thuja plicata*), non-native grass, ornamental shrubs, and invasive woody species. Lack of native vegetation coverage and location of existing single-family residential improvements have been identified within the steep slope and steep slope structure setback. The soils of this site have been identified as Kitsap silt loam (KpD) and Alderwood gravelly sandy loam (AgC) according mapping provided by the Natural Resources Conservation Service (NRCS). See Figure 2 below for the current site**.**

Figure 2

B. Zoning

The property is zoned R-1.8 (Single-Family Residential) and is located within the Southwest Bellevue subarea. See Figure 3 for zoning map and Figure 4 for subarea information.

Figure 3

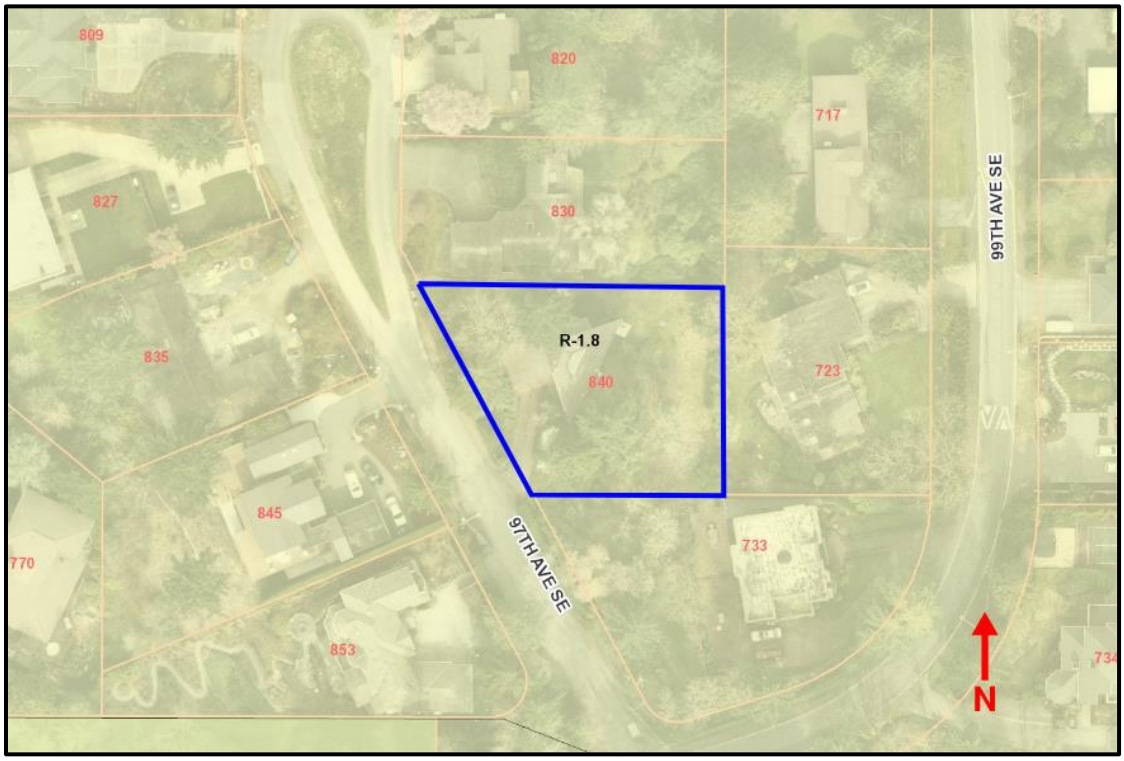


Figure 4

C. Land Use Context

The site and the surrounding residential lots have a Comprehensive Plan designation of SF-L, or Single-Family Low Density. Lake Washington is located approximately 1,000 feet (0.19 miles) to the southwest and Chism Beach Park is located approximately 175 feet (0.03 miles) to the southwest. See Figure 5 for Comprehensive Plan designation.

Figure 5

D. Critical Areas Functions and Values

i. Steep Slopes and Geologic Hazards

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provides a water

source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located within the R-1.8 zoning district. All zoning dimensional standards will be confirmed during review of the required building permit.

Basic Information			
Zoning District	R-1.8		
Gross Lot Area	16,100 square feet (0.37 acres)		
Dimensional Requirement	**Standard**	**Proposed**	**Complies?**
Front Yard Structure Setback (feet)	30	40	Complies
Rear Yard Structure Setback (feet)	25	28	Complies
Side Yard Structure Setback (feet)	5	5	Complies
Maximum Lot Coverage (percent)	35%	23.8%	Complies
Maximum Impervious Surface (percent)	45/50	40.6%	Complies
Minimum Greenspace (percent)	50	73.2%	Complies

B. Consistency with Land Use Code Critical Areas Performance Standards:

i. Steep Slope Performance Standards – 20.25H.125

Development on sites with steep slopes or steep slope critical area buffers shall incorporate the following performance standards, as applicable:

1. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

The proposed single-family residence and improvements have been designed

to avoid impacts to the natural topography of the site to the maximum degree possible. A 25 square-foot intrusion into the steep slope for the construction of a retaining is necessary to utilize the existing driveway and provide safe ingress and egress to the property. No other improvements or changes in topography of the steep slope are proposed.

2. **Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;**
The proposed single-family residence has been designed and located to take advantage of existing development and disturbance areas. This includes utilizing the existing foundation and driveway. The existing driveway does not provide safe ingress and egress to the site, and the proposal will expand the driveway area to provide the minimum amount of circulation needed to avoid backing out of an excessively steep driveway. Some vegetation loss will occur due to the development of the single-family home and the 25 square-foot intrusion into the steep slope. As mitigation, the applicant has proposed native steep slope plantings and vegetative enhancement of an existing stand of mature trees.

3. **The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;**
The proposal has a "factor-of-safety of 3.1 and 1.3 for static and seismic conditions" (Attachment 3; pg. 5) and is "feasible from a geotechnical standpoint" (pg.1). All recommendations are required to be implemented into the design of the structure and development and must be reviewed by the geotechnical report author prior to approval the Building Permit. See Section X regarding geotechnical review and hold harmless requirement for conditions of approval.

4. **The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;**
A retaining wall is proposed as part of the 25 square-foot disturbance proposed within the steep slope. This will ensure existing slope grades will be maintained while providing support for the slope and ample space for maneuverability within the driveway.

5. **Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;**
The proposed development has minimized the amount of added impervious surface to 25 square-feet within the steep slope to the degree necessary to provide a driveway with space to maneuver safely for ingress and egress of the property.

6. **Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;**
   No changes of grade outside of the footprint and within the steep slope or steep slope structure setback are proposed other than those described for the installation of the cut retaining wall at the base of the steep slope. This is made possible due to the location of new improvements being located over where existing improvements are located.

7. **Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;**
   One retaining small retaining wall is proposed to support area needed to expand the existing driveway opposite of the proposed single-family residence. A foundation wall is not feasible due to grades at the proposed house footprint, which would require a foundation wall to be extended along areas of minimal disturbance and creating additional permanent disturbance and topographic modification on the site.

8. **On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;**
   No structure development is proposed over slopes in excess of 40 percent. A cut retaining wall is proposed for the expansion of the existing driveway, which would not be feasible through pole-type construction.

9. **On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and**
   No parking or garages on fill-based construction types are proposed.

10. **Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**
    A mitigation plan that includes approximately 465 square feet of native steep slope mitigation planting and 1,265 square feet of native enhancement planting located to the east of the driveway has been submitted with this proposal. The total exceeds the 25 square feet of impacts to the steep slope required for the driveway improvements and is intended to provide functional improvement stormwater quality and habitat above what currently exists on-site. <u>See</u>

Section X for mitigation conditions of approval.

C. Consistency with Critical Areas Report LUC 20.25.230.
The applicant supplied a complete critical areas report prepared by The Watershed Company, a qualified professional (Attachment 2). The report met the minimum requirements in LUC 20.25H.250.

IV. Public Notice and Comment

Application Date:	October 2, 2019
Public Notice (500 feet):	December 5, 2019
Minimum Comment Period:	December 19, 2019

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on December 5, 2019. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

V. Summary of Technical Reviews

Clearing and Grading:
The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development. Work within proximity to the steep slope will be restricted during the rain season unless specifically allowed by Clearing & Grading approval through implementation of specific BMPs. See Section X for conditions of approval.

Utilities:
City of Bellevue Utilities staff has reviewed the proposed development for compliance with City of Bellevue Utilities codes and standards. Utilities staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

Per BCC 22.02.032 and WAC 197-11-800(1) construction and associated grading of one single-family residence and improvements located in critical areas is exempt from SEPA review.

VII. Changes to Proposal as a Result of City Review

No significant changes were requested by City staff during the review of this proposal.

VIII. Decision Criteria

A. Critical Areas Report Decision Criteria-Proposals to Reduce Regulated Critical Area Buffer LUC 20.25H.255.

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site where the applicant demonstrates:

1. The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as the application of the regulations and standards of this code;

Finding: The modifications and performance standards included in this proposal will lead to improved levels of protection of critical areas functions and values. The CAR (Attachment 2) identifies and documents the degraded conditions on-site, both in the area of where the proposed single-family residence is and where the proposed mitigation planting will occur. With the installation of native vegetation, net improvement is expected, primarily through the improvements to the existing habitat conditions and stormwater quality. See Section X for mitigation plan conditions of approval.

2. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

Finding: A five-year maintenance and monitoring plan has been included in the proposal. In addition to maintenance and monitoring activities, an assurance device associated with the maintenance and monitoring will be required as part of the Building Permit. See Section X surety requirements for conditions of approval.

3. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and

Finding: The modifications and performance standards included in the proposal are not detrimental to off-site critical areas and buffers and are expected to lead to improved steep slope function for on-site and off-site steep slope area and buffer. As noted in the Critical Areas Report the areas of low level of function on this site would continue without the minor impact to the steep slope, the modification to the steep slope structure setback, and the mitigation plan. The steep slope functions will be improved with the proposed actions.

4. The resulting development is compatible with other uses and development in the same land use district. (Ord. 5680**, 6-26-06, § 3)**

Finding: The proposal does not change the underlying zoning or existing land use. The existing single-family residence will be demolished and replaced with this proposal.

B. Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The applicant will be required to apply for a Building Permit after the approval of the Critical Areas Land Use Permit. See Section X for conditions of approval.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal has been designed and located to minimize impacts to and improve steep slope critical area functions. The proposed single-family residence is located within an area of low function due to existing improvements and degraded conditions. Locating the development as proposed has the least impact on the steep slope critical area while providing on-site circulation for safe ingress and egress to the property that was not contemplated in past development of the property. The proposal utilizes existing development and disturbance areas to help avoid unnecessary development impacts to the steep slope and to a stand of mature trees located on the south side of the existing driveway. Additionally, on-site mitigation through steep slope buffer plantings and vegetation enhancement of the on-site stand of trees will help to provide uplift in function both to the steep slope critical area and the site. See Section X for conditions of approval.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: As discussed in Section III.B of this report, the proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The site is currently served by adequate public facilities and no additional need is anticipated with this proposal.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The proposal includes a mitigation plan that provides native planting consistent with LUC 20.25H.210. The plan also contains a five-year maintenance and monitoring plan to ensure successful establishment of installed planting. See Section X for mitigation condition of approval.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a 3,550 square-foot single-family residence at 840 94th Ave SE as shown on the proposed plans (Attachment 1).

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Building Permit, Clearing and Grading Permit, or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Utilities Code	Jason Felgar, 425-452-7851
Land Use Code- BCC 20.25H	David Wong, 425-452-4282

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A Building Permit shall be required and approved. Plans consistent with those submitted as part of this permit application shall be included in the Building Permit application.

Authority: Land Use Code 20.30P.140
Reviewer: David Wong, Land Use

2. Geotechnical Analysis: Review and written geotechnical memo shall be provided to the City by the project geotechnical engineer prior to Building Permit approval. The

written memo shall verify the design meets the recommendations made in the report dated September 30, 2019 and the addendum dated February 17, 2020.

Authority: Land Use Code 20.25H.125
Reviewer: David Wong, Land Use

3. Hold Harmless Agreement: Prior to building permit approval, the applicant or property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the steep slope buffer modification. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170
Reviewer: David Wong, Land Use

4. Mitigation Plan: A final mitigation plan in accordance with the conceptual mitigation plan provided under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit

Authority: Land Use Code 20.25H.125
Reviewer: David Wong, Land Use

5. Maintenance & Monitoring: A maintenance & monitoring plan in conformance with the plan submitted under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The mitigation plan shall be maintained and monitored for a minimum of five (5) years. Annual reporting shall be submitted at the end of each growing season or by December 1 for each of the five years this plan is applicable. All reporting shall be submitted by email to **dwong@bellevuewa.gov**. or by mail to:

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D, 20.25H.220.H
Reviewer: David Wong, Land Use

6. Maintenance and Monitoring Assurance Device: A financial surety is required to be submitted to ensure the mitigation planting successfully establishes. A maintenance assurance device that is equal to 20% of the cost of plants, installation, and the cost of monitoring is required to be held for a period of five years from the date of building permit issuance. A cost estimate is required to be provided with the building permit. The financial surety is required to be posted prior to building permit issuance. Release of

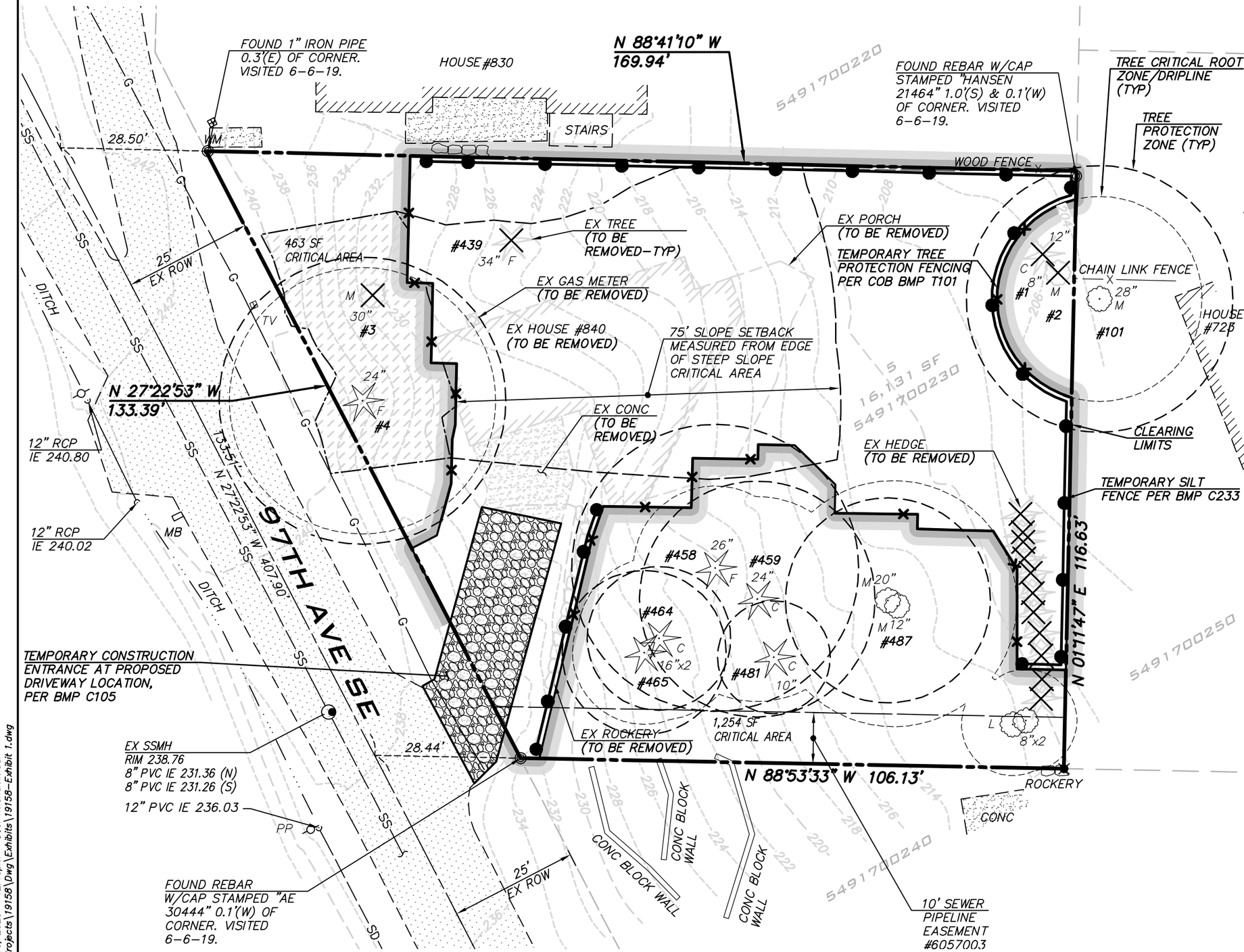
the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful and the mitigation meets performance standards.

Authority: Land Use Code 20.25H.220.F
Reviewer: David Wong, Land Use

7. Rainy Season restrictions: Due to the proximity of working occurring and the presence of a steep slope on-site, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Savina Uzunow, Clearing & Grading

KASSAM RESIDENCE



PROJECT TEAM

OWNER
LEGACY DEVELOPMENT & MANAGEMENT, LLC
6501 EAGLE ROCK NE, SUITE B-5
ALBUQUERQUE, NM 87113
(505) 243-6000
CONTACT: FAIZEL KASSAM

SURVEYOR
PACIFIC COAST SURVEYS, INC.
PO BOX 13619
MILL CREEK, WA 98082
(425) 512-7099
CONTACT: DARREN RIDDLE

CIVIL ENGINEER
BLUELINE
25 CENTRAL WAY, SUITE 400
KIRKLAND, WA 98033
(425) 250-7238
CONTACT: ADAM KAY

ARBORIST
LAYTON TREE CONSULTING, LLC
PO BOX 572
SNOHOMISH, WA 98291
(425) 220-5711
CONTACT: BOB LAYTON

SITE DATA

SITE ADDRESS:	840 97TH AVE SE
TAX ACCOUNT NUMBER:	5491700230
ZONING:	R-1.8
GROSS SITE AREA:	16,100 SF (0.37 AC)

BLUELINE

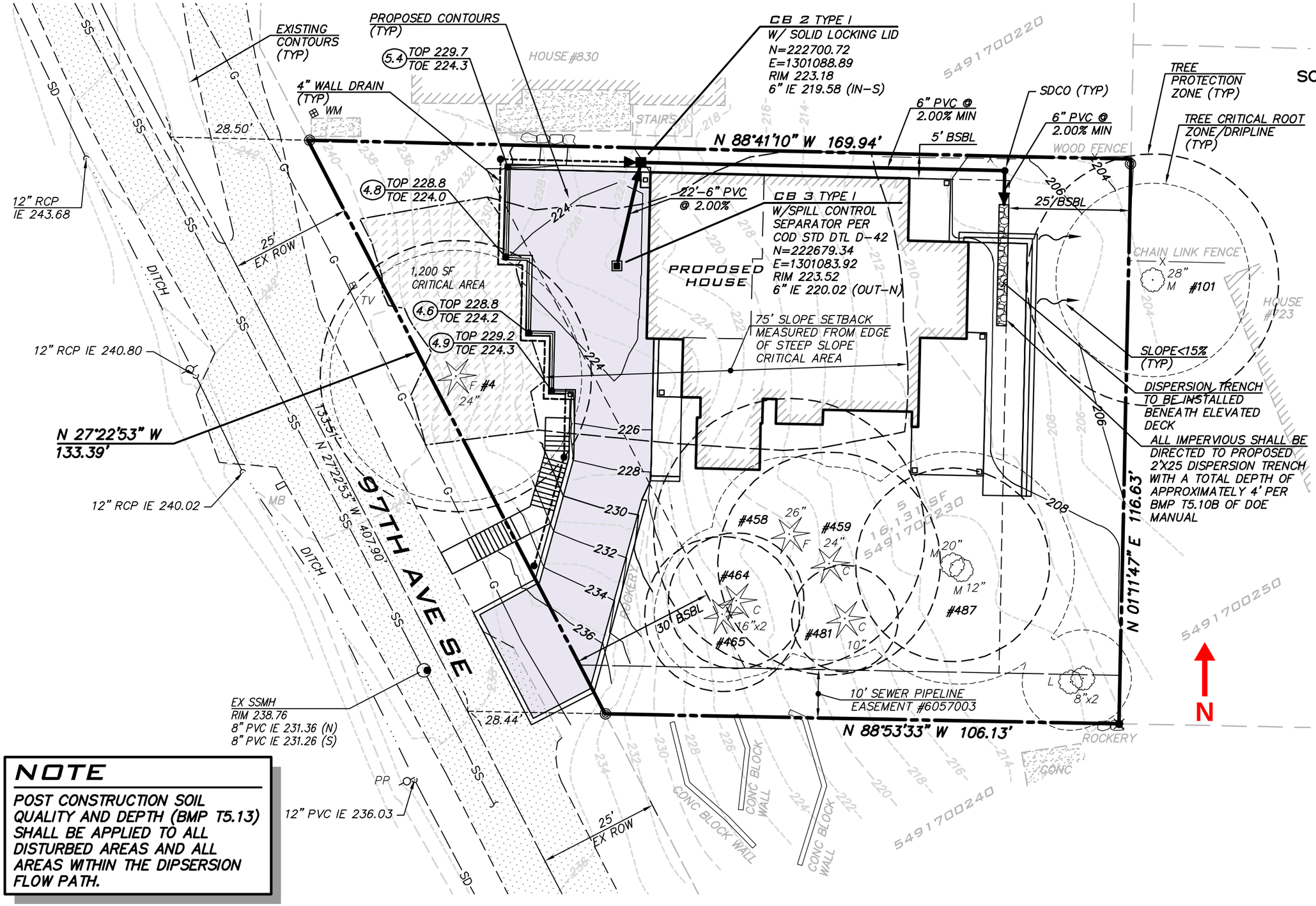
TESC PLAN
KASSAM RESIDENCE
CRITICAL AREAS PERMIT

SCALE	AS NOTED
PROJECT MANAGER	ADAM KAY
DESIGNED BY	RUBY MOHAMMADI
DRAWN BY	NADIA KROUMOVA
PLOT DATE	February 10, 2020

JOB NUMBER: 19-158

FIGURE: EXH-1

KASSAM RESIDENCE



NOTE

POST CONSTRUCTION SOIL QUALITY AND DEPTH (BMP T5.13) SHALL BE APPLIED TO ALL DISTURBED AREAS AND ALL AREAS WITHIN THE DIPSERSION FLOW PATH.

BLUELINE

GRADING AND DRAINAGE PLAN
KASSAM RESIDENCE
CRITICAL AREAS PERMIT

SCALE	AS NOTED
PROJECT MANAGER	ADAM KAY
DESIGNED BY	RUBY MOHAMMADI
DRAWN BY	NADIA KROUMOVA
PLOT DATE	February 10, 2020

JOB NUMBER: 19-158

FIGURE: EXH-2

Feb 10, 2020 - 12:19pm - User rmohammadi
E:\Projects\19158\Dwg\Exhibits\19158-Exhibit 2.dwg